

§ 4.317 Standards of conduct.

(a) *Inquiries about cases.* All inquiries with respect to any matter pending before the Board shall be made to the Chief Administrative Judge of the Board or the administrative judge assigned the matter.

(b) *Disqualification.* An administrative judge may withdraw from a case in accordance with standards found in the recognized canons of judicial ethics if the judge deems such action appropriate. If, prior to a decision of the Board, a party files an affidavit of personal bias or disqualification with substantiating facts, and the administrative judge concerned does not withdraw, the Director of the Office of Hearings and Appeals shall determine the matter of disqualification.

§ 4.318 Scope of review.

An appeal shall be limited to those issues which were before the administrative law judge upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the official of the Bureau of Indian Affairs on review. However, except as specifically limited in this part or in title 25 of the Code of Federal Regulations, the Board shall not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

APPEALS TO THE BOARD OF INDIAN
APPEALS IN PROBATE MATTERS

SOURCE: 54 FR 6487, Feb. 10, 1989, unless otherwise noted.

§ 4.320 Who may appeal.

(a) A party in interest has a right to appeal to the Board from an order of an administrative law judge on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(b) *Notice of Appeal.* Within 60 days from the date of the decision, an appellant shall file a written notice of appeal signed by appellant, appellant's attorney, or other qualified representative as provided in 43 CFR 1.3, with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard,

Arlington, Virginia 22203. A statement of the errors of fact and law upon which the appeal is based shall be included in either the notice of appeal or in any brief filed. The notice of appeal shall include the names and addresses of parties served. A notice of appeal not timely filed shall be dismissed for lack of jurisdiction.

(c) *Service of copies of notice of appeal.* The appellant shall personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy shall be served upon the administrative law judge whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board shall include a certification that service was made as required by this section.

(d) *Action by administrative law judge; record inspection.* The administrative law judge, upon receiving a copy of the notice of appeal, shall notify the Superintendent concerned to return the duplicate record filed under §§ 4.236(b) and 4.241(d), or under § 4.242(f) of this part, to the Land Titles and Records Office designated under § 4.236(b) of this part. The duplicate record shall be conformed to the original by the Land Titles and Records Office and shall thereafter be available for inspection either at the Land Titles and Records Office or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the administrative law judge shall have a transcript prepared which shall be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

[54 FR 6487, Feb. 10, 1989, as amended at 64 FR 46152, Aug. 24, 1999; 65 FR 25450, May 2, 2000; 66 FR 32890, June 18, 2001; 66 FR 33741, June 25, 2001]

§ 4.321 Notice of transmittal of record on appeal.

The original record on appeal shall be forwarded by the Land Titles and Records Office to the Board by certified mail. Any objection to the record as constituted shall be filed with the Board within 15 days of receipt of the notice of docketing issued under § 4.332 of this part.